

1 Stephen D. Finestone (125675)
Jennifer C. Hayes (197252)
2 Ryan A. Witthans (301432)
FINESTONE HAYES LLP
3 456 Montgomery Street, Floor 20
San Francisco, CA 94104
4 Tel.: (415) 421-2624
Fax: (415) 398-2820
5 Email: sfinestone@fhllawllp.com
Email: jhayes@fhllawllp.com
6 Email: rwitthans@fhllawllp.com

7 Counsel for Kyle Everett,
Chapter 7 Trustee
8

9 **UNITED STATES BANKRUPTCY COURT**
10 **NORTHERN DISTRICT OF CALIFORNIA**
11 **SAN FRANCISCO DIVISION**

12
13 In re

14 BENJA INCORPORATED,

15 Debtor.
16
17

Case No. 20-30819-DM

Chapter 7
Previous Chapter 11

**APPLICATION FOR ORDER
AUTHORIZING EMPLOYMENT OF
UNITEDLEX CORPORATION**

18
19 Pursuant to § 327,¹ Bankruptcy Rule 2014, and Bankruptcy Local Rule 2016-1, Kyle
20 Everett (the “Trustee”), the duly appointed Chapter 7 trustee of the bankruptcy estate of Benja
21 Incorporated (the “Debtor”), hereby submits this *Application for Order Authorizing Employment*
22 *of UnitedLex Corporation* (the “Application”). This Application is supported by the concurrently
23 filed declaration of Ryan S. Reeves (“Reeves Decl.”) and its attached exhibits. In further support
24 of the Application, the Trustee states as follows:
25
26

27 ¹ Unless specified otherwise, all chapter and code references are to the Bankruptcy Code,
28 11 U.S.C. §§ 101 *et seq.* “Bankruptcy Rule” references are to the Federal Rules of Bankruptcy
Procedure.

1 1. The Debtor filed a voluntary Chapter 11 bankruptcy petition on October 15, 2020.
2 ECF 1. The Court granted a motion by creditor Busey Bank to appoint a Chapter 11 trustee on
3 October 26, 2020. ECF 19, 26. The Trustee was appointed as the Chapter 11 trustee on
4 November 3, 2020. ECF 45.

5 2. On January 15, 2021, the Trustee moved to convert the case to Chapter 7. ECF
6 67. On January 29, 2021, the Court converted the case to Chapter 7 and appointed the Trustee as
7 the Chapter 7 trustee. ECF 85, 86.

8 3. The Debtor was ostensibly an e-commerce advertising startup company founded
9 by Andrew Chapin (“Mr. Chapin”) in 2014. ECF 103 at 2. On or about November 23, 2020, Mr.
10 Chapin was arrested and charged in federal court with multiple counts of fraud in connection
11 with a multimillion-dollar scheme to deceive the Debtor’s investors and creditors (the “Criminal
12 Case”). ECF 103-1 at ¶ 5. Mr. Chapin pled guilty to multiple charges in the Criminal Case on or
13 about June 16, 2021. *Id.* at ¶ 8.

14 4. Since his appointment, the Trustee has been investigating the Debtor’s prior
15 affairs and transaction. ECF 68 at ¶ 5. The Trustee has been hindered by Mr. Chapin’s refusal to
16 provide information that might assist with the investigation of estate claims. *Id.* at ¶ 6.
17 Nevertheless, the Trustee has engaged in many hours of research of the Debtor’s financial
18 transactions and documents related to the transactions and has developed a list of transactions
19 that may be avoidable. *Id.* at ¶ 7. The Trustee is pursuing the recipients of funds from the Debtor,
20 has identified targets for avoidance actions and the like, has filed two adversary proceedings, and
21 has reached a mediated settlement with a third target group. *Id.*; Adv. Proc. Nos. 21-03036
22 (MHC Financial Services, Inc.), 21-03060 (Thomas B. Peters); ECF 103 (motion to approve
23 compromise with Brett T. Buerck and related parties).

24 5. In connection with two computers obtained from Mr. Chapin, which the Trustee is
25 informed and believe are the Debtor’s computers, the Trustee believes that it has become
26 necessary to engage the services of a consultant to manage the electronically stored information
27 (“ESI”) obtained by the Trustee in his investigation of estate claims. The Trustee believes that
28

1 UnitedLex Corporation (“UnitedLex”) is well-qualified to provide the desired ESI consulting
2 services and that employment of UnitedLex is in the best interests of the bankruptcy estate.

3 6. By way of this Application, the Trustee seeks authority to engage UnitedLex to
4 provide ESI-related services including, without limitation: (1) certified collection, restoration,
5 and examination of ESI; (2) forensic consultation related to data collection, data recovery, data
6 decryption, email extractions, and password cracking; (3) coordination and management of
7 preservation and collection requests; (4) data management, tracking, auditing, and storage; (5)
8 data processing; (6) use of the Brainspace advanced data analytics platform; (7) use of the
9 Relativity electronic discovery platform; (8) analytics including the use of technology assisted
10 review tools; and (9) technician, management, and consultant services. A more detailed list of
11 anticipated services is provided in the Addendum of Fees attached to the SOW, as modified by
12 the Amended SOW. *See* Reeves Decl. at Exhibits A, B.

13 7. Subject to Court approval of UnitedLex’s fees on a final basis, Bankruptcy Local
14 Rule 2016-1, and the *Guidelines for Compensation and Expense Reimbursement of Professionals*
15 *and Trustees for the Northern District of California Bankruptcy Court*, the Trustee agrees to
16 compensate UnitedLex on an interim basis as set forth in the SOW. Compensation is based on
17 categories of services as set forth in the Addendum of Fees attached to the SOW, as modified by
18 the Amended SOW. *See id.*


19 8. Prior to receiving confidential information in this case, if any, UnitedLex shall
20 enter into (1) the *Acknowledgement and Agreement to be Bound* attached as Exhibit A to the
21 *Stipulation and Agreement for Protective Order* that was filed on April 23, 2021, and approved
22 by the Court on April 27, 2021, ECF 92, 93; and (2) the *Acknowledgement and Agreement to be*
23 *Bound* attached as Exhibit A to the *Stipulation and Agreement for Protective Order* that was
24 filed in adversary proceeding 21-03036 on December 9, 2021, and approved by the Court on
25 December 14, 2021, Adv. Proc. No. 21-03036 ECF 17, 18.

26 9. Based on the supporting declaration of Ryan S. Reeves, the Trustee believes that
27 UnitedLex does not hold any interest adverse to the estate and is qualified to assist the Trustee.
28

1 10. UnitedLex has not received a retainer for its anticipated services. Based on the
2 supporting declaration of Ryan S. Reeves, the Trustee believes that UnitedLex has not agreed to
3 share any compensation to be awarded in this case with any person or entity.

4 Based on the foregoing, the Trustee requests that the Court enter an order authorizing the
5 employment of UnitedLex as the Trustee's ESI consultant.

6
7 Dated February 1, 2022



8 Kyle Everett,
9 Chapter 7 Trustee

10 Dated February 1, 2022

FINESTONE HAYES LLP

11 /s/ Ryan A. Witthans
12 Ryan A. Witthans
13 Counsel for Kyle Everett,
14 Chapter 7 Trustee
15
16
17
18
19
20
21
22
23
24
25
26
27
28